

Request for City Council Committee Action from the Department of Community Planning and Economic Development

Date: November 8, 2013

To: Council Member Robert Lilligren, Chair, Committee of the Whole

Subject: Parkland Dedication Ordinance

Recommendation:

1) Adopt the included revisions to the Parkland Dedication Ordinance.

Previous Directives: On May 2, 2008, the City Council approved a staff direction on Park Dedication Fees, which requested additional research and analysis on the impact of such fees. On July 15, 2008, staff presented its findings to the Community Development Committee. City and Park Board staff were directed to recommend a proposed methodology for imposition of Park Dedication Fees on housing and commercial/industrial developments, and the City Attorney was directed to prepare a Park Dedication Fee ordinance for City Council consideration that reflects this methodology. On February 10, 2009, the Community Development Committee similarly directed staff to prepare an ordinance for consideration. On April 10, 2009, the City Council adopted a parkland dedication ordinance and forwarded it to the Minneapolis Park and Recreation Board for consideration. On July 2, 2010, the intended ordinance amendment was introduced and referred to Committee of the Whole. On September 2, 2010, the Committee of the Whole recommended approval of revisions to the Parkland Dedication Ordinance as well as a request to the IGR subcommittee to include in the 2011 state legislative agenda working with the Park Board to seek clarification that the parkland dedication may be required outside of the platting/subdivision process and that a flat fee may be used for residential development. This recommendation also included revised staff direction for ordinance implementation. On September 24, 2010, the City Council adopted revisions to the Parkland Dedication Ordinance, the recommendation to include in the 2011 State Legislative Agenda to work with the Park Board to seek relevant clarifications and approval of revised staff direction in order to prepare for ordinance implementation.

Department Information

Prepared by: CPED and City Attorney Staff

Approved by: Jeremy Hanson Willis, CPED Executive Director ___ Presenters in Committee: Brad Carter, Doug Kress, Erik Nilsson

Financial Impact

The adopted and revised ordinance includes a provision for an administrative fee to offset City costs.

The imposition of an additional park dedication fee on projects that need City financial assistance to be feasible may increase the gap that needs to be filled.

Community Impact

Neighborhood Notification: All City neighborhood organizations were notified of the proposed ordinance amendments as part of the October 28, 2013, City Planning Commission public hearing on the proposed text amendments.

City Goals:

Adoption of the Parkland Dedication Ordinance would be consistent with the City Goals of a city that is Eco-Focused (through provision of world-class parks), a city that has Livable Communities, Healthy Lives (through provision of plentiful recreational opportunities for those who live and work here) and A City That Works (through the provision of strong partnerships between the City and the Park Board).

Comprehensive Plan:

Approval of an amended Parkland Dedication Ordinance is consistent with the City's Comprehensive Plan and may be a necessary tool to implement desired policies. The following policies would be supported by adoption of the Parkland Dedication Ordinance.

- Policy 7.1: Promote the physical and mental health of residents and visitors by recognizing that safe outdoor amenities and spaces support exercise, play, relaxation and socializing.
- Policy 7.3: Maintain and improve the accessibility of open spaces and parks to all residents.
- Policy 7.4: Work to restore and preserve ecosystem functions in green open space areas.
- Policy 7.6: Continue to beautify open spaces through well designed landscaping that complements and improves the City's urban form on many scales from street trees to expansive views of lakes and rivers.
- Policy 7.7: Support the expansion and maintenance of open spaces and parks in order to increase economic development and to promote tourism.
- Policy 7.8: Strengthen existing and create new partnerships, including public-private partnerships, to deliver the best park and open space system possible.
- Policy 7.9: Work to develop high quality open spaces in Downtown.
- Policy 10.14: Encourage development that provides functional and attractive gathering spaces.

Supporting Information

Special legislation approved by the State Legislature in 2006, 2008 and 2013 (Minnesota Statutes Section 462.358, Subd. 2, as amended, Laws of Minnesota 2006, Chapter 269 and Laws of Minnesota 2008, Chapter 331, Laws of Minnesota 2008, Chapter 366, Laws of Minnesota 2013, Chapter 85) has allowed the City of Minneapolis and the Minneapolis Park and Recreation Board the opportunity to approve and implement a parkland dedication ordinance. This ordinance would require new development and additions to existing development to dedicate land for parks in order to meet the needs of additional residents and employees associated with that development. Where actual land dedication is not appropriate, the ordinance requires the payment of a fee in lieu of dedication.

The Minneapolis City Council originally adopted a parkland dedication ordinance in April 2009 and a subsequent amendment to that ordinance in September 2010. Per state requirements, the Minneapolis Park and Recreation Board and the City Council must adopt identical ordinances. The Park Board adopted their original ordinance in July 2007 with a subsequent amendment adopted in July 2009 and another in July 2010.

Due to lack of clarity in state law which impacted implementation of the adopted ordinance, the State Legislature approved special state law language in May 2013 to clear the way for implementation of the adopted ordinance, upon adoption of revised language by both the City Council and Minneapolis Park and Recreation Board.

Statutory or special law clarifications approved by the Legislature in May 2013 include:

- Statutory language regarding land dedication to include the meaning of "fair market value" as the value of land as determined by the municipality annually based on tax valuation of other relevant data.
- Land dedication or fee in lieu of dedication can be imposed in conjunction with construction permits.
- Cash fee may be set at a flat fee rate per net new residential units.
- Set the effective date of these changes as no sooner than January 1, 2014.

The revision to the City adopted ordinance is recommended for City Council approval.

Revised Ordinance

Exhibit A shows the entire ordinance as revised, and Exhibit B highlights the actual ordinance language revisions that are recommended for adoption at this time. This amended ordinance was forwarded to the City Council with a recommendation of approval by the City Planning Commission after a public hearing held on October 28, 2013. No public testimony was presented at the Planning Commission hearing.

The recommended amendments include:

- Adding language to the Land Subdivision Appeal section (598.320) which clarifies that appeals of the parkland dedication ordinance will be to district court and not City Council (per adopted state law).
- Updating adopted findings to reflect most recent population and employment projections (per Metropolitan Council research).
- Language to clean up and reflect most recent state level authority (special law).
- Including lot line adjustments in the list of items for which the parkland dedication ordinance would not apply.
- Adding specific language outlining how much time the Park Board has to respond to the city regarding a declination of proposed dedication. Adopted ordinance language states "in a timely manner." Proposed ordinance states "within ten (10) business days."
- Language was added to clarify that the fee in lieu of dedication (when not associated with platting) shall be paid at the time of payment of the fees for the building permit that authorizes the construction of the main structure of the project.
- Adding language to the administrative fee section (598.410) to clarify that this administrative fee is non-refundable as it is meant to offset the additional staff work necessary to implement the ordinance.

 Revising the ordinance's effective date to reflect approved state language (no sooner January 1, 2014) and clarify that the adopted ordinance shall not apply to development projects that have obtained approval of all required land use applications OR development projects which whose complete land use review or building permit application(s) are received in full by CPED prior to the effective date.

EXHIBIT A

Parkland Dedication Ordinance Amendments Ordinance 2013-Or-

By Johnson and Goodman

Amending Title 22, Chapter 598 of the Minneapolis Code of Ordinances relating to Land Subdivision: Land Subdivision Regulations.

The City Council of The City of Minneapolis do ordain as follows:

Section 1. That Section 598.320 of the above-entitled ordinance be amended to read as follows:

598.320. Appeal. Unless otherwise prescribed by state law, Aall decisions of the planning commission shall be final subject to appeal to the city council and the right of subsequent judicial review. Appeals may be initiated by any affected person by filing the appeal with the zoning administrator on a form approved by the zoning administrator. All appeals must be filed within ten (10) calendar days of the date of decision by the planning commission and shall be accompanied at the time of filing with payment of a seventy-five dollars (\$75.00) application fee. In the case of an appeal made by the original subdivider, the fee shall be waived. Timely filing of an appeal shall stay the decision of the planning commission until a decision is made by the city council. Not less than ten (10) days before the public hearing to be held by the zoning and planning committee of the city council to consider the appeal, the zoning administrator shall mail notice of the hearing to the property owners and the registered neighborhood group(s) who were sent notice of the public hearing held by the planning commission to consider the subdivision application. The failure to give mailed notice to individual property owners, or defects in the notice, shall not invalidate the proceedings provided a bona fide attempt to comply with this section has been made. No subdivision approval shall be recorded nor any action taken by any person to develop, grade or otherwise alter the property until expiration of the ten (10) day appeal period and, if an appeal is filed pursuant to this section, until after a final decision has been made by the city council approving the subdivision.

Section 2. That Section 598.340 of the above-entitled ordinance be amended to read as follows:

598.340. Findings and purpose. The City Council of the City of Minneapolis and the Park and Recreation Board of the City of Minneapolis jointly find that the preservation and development of parks, playgrounds, recreational facilities, wetlands, trails, and open space areas within the city are essential to maintaining a healthy and desirable environment for residents and persons employed within the city. The value and attractiveness of residential, commercial, and industrial developments to land owners, developers, purchasers, employers, and employees is significantly enhanced by the presence of park and open space amenities.

The city council and park and recreation board find that the development of land for new residential, commercial, and industrial purposes creates a need for park and recreational land and facilities within the city that exceeds current park resources. The city council and park and recreation board find that:

- (1) The National Recreation and Parks Association's guidelines for park system planning are that neighborhood parks have a service area between one-quarter (1/4) to one-half (1/2) mile and that the service area for community parks is between one-half (1/2) to three (3) miles.
- (2) The Urban Land Institute's guidelines have a one-half (1/2) mile service radius for neighborhood parks and a two (2) mile service radius for community parks.
- (3) One (1) of the stated goals of the park board's comprehensive park system plan is to "ensure park access for all residents by providing parks within an easy walk from their homes (no more than six (6) blocks) and achieving a ratio of .01 acres of parkland per household."
- (4) The city's current neighborhood and community parks consist of one thousand seven hundred twenty-nine (1,729) acres.
- (5) The city Metropolitan Council has projected that by the year 2030 2040, twenty-six thousand three hundred fifty (26,350) forty-six thousand three hundred and sixty (46,360) new households will be added to the city creating a demand for an additional two hundred sixty-three (263) four hundred and sixty-four (464) acres of neighborhood and community parkland.
- (6) The city's comprehensive plan Metropolitan Council projects net new job growth of fifty three thousand seven hundred sixty (53,760) one hundred thirty-seven thousand three hundred sixty-eight (137,368) by the year 2030 2040, which would create an additional need for one hundred twenty two (122) three hundred and eleven (311) acres of parkland.

Section 3. That Section 598.350 of the above-entitled ordinance be amended to read as follows:

598.350. Authority. Pursuant to Minnesota Statutes Section 462.358, Subd. 2, as amended, Laws of Minnesota 2006, Chapter 269, and Laws of Minnesota 2008, Chapter 331, Laws of Minnesota 2008, Chapter 366, Laws of Minnesota 2013, Chapter 85, and other powers granted by law, the city and park and recreation board are jointly authorized to require that a reasonable portion of any new residential, commercial, and industrial development be dedicated to the public for public use as parks, playgrounds, recreational facilities, wetlands, trails, or open space areas, and that the city and park and recreation board may alternatively accept an equivalent amount in cash.

Section 4. That Section 598.370 of the above-entitled ordinance be amended to read as follows:

598.370. Land dedication requirements. (a) *Generally*. Pursuant to Minnesota Statutes Section 462.358, Subd. 2, as amended, Laws of Minnesota 2006, Chapter 269, and Laws of Minnesota 2008, Chapter 331, aAny developer of land within the city that will result in a net increase in the number of development employees and/or a net increase in the number of residential dwelling units shall convey or dedicate to the public a reasonable portion of the land for public use for parks, playgrounds, recreational facilities, wetlands, trails, or open space. This requirement shall apply to platting of land, re-platting of land, registered land survey, or development that will require a building permit, but shall not apply to tax parcel combinations or splits, minor subdivisions, lot line adjustments, conversions of apartments to condominiums, or internal leasehold improvements that do

not result in a net increase in the number of residential dwelling units or development employees.

City staff, in consultation with the Park Board Superintendent or their designee and the developer, shall determine the location and configuration of any land dedicated, taking into consideration the suitability and adaptability of the land for its intended purpose, future needs of the proposed development, and the criteria below. The park board may decline any such proposed dedication by responding in writing in a timely manner within ten (10) business days to a communication from the city to the park board describing the proposed land dedication. In such case, the developer will be required to make a payment-in-lieu of dedication in accordance with subdivision (c) below.

Criteria to be considered:

- (1) The land to be dedicated must be in conformance with the comprehensive plan and applicable adopted small area plans and in an area that is identified for park or conservation purposes in an adopted city or park board plan.
- (2) The land to be dedicated should serve an appropriate public purpose, which might include one (1) or more of the following:
- a. Connecting existing components of the parks and open space network (including creation of a trail connection).
- b. Expanding an existing public park, trail, or open space by the addition of adjacent land.
- c. Preserving significant landforms, native plant communities, sensitive habitat, and/or cultural resources.
- d. Preserving areas containing vegetation identified as endangered or threatened or that provide habitat for animals identified as endangered, threatened, or of special concern under 15 United States Code Section 1531 et seq. or Minnesota Statutes Section 84.0895, and rules adopted under these respective laws.
- e. Providing space for recreational and leisure uses appropriate to meet the needs of the new residents and/or employees.
- (3) There must be sufficient resources, public and/or private, available and committed to develop, operate, and maintain the new park land.
- (4) The land to be dedicated should help serve an area that is under-served by parks due to distance to existing parks, population density, inadequate facilities, or inadequate size of existing nearby parks.
- (5) The land to be dedicated shall be adequate for its intended purpose.
- (6) Land dedicated solely for roadway, stormwater retention, or utility purposes, or otherwise unsuitable for the purposes listed above, shall not be accepted as satisfying the land dedication requirements of this article.
- (7) Dedicated land shall be accessible to the public served unless the city and park board determine that the dedicated land is an environmentally or ecologically sensitive area for which public access would be detrimental.

- (b) Formula for dedication of land. At any time that net new residential dwelling units and/or net new or increased development employees will result from development, the developer shall dedicate:
 - (1) .0066 acres of land for every newly created residential dwelling unit within the downtown area or .01 acres of land for every newly created residential dwelling unit outside of the downtown area, up to a maximum of ten (10) percent of the area being platted or developed, plus
 - (2) One hundred (100) square feet of land for each development employee, up to a maximum of ten (10) percent of the area being platted or developed.

Land so dedicated shall be within the plat, registered land survey, or development site and/or, subject to approval by the city after consultation with park board staff and the developer, in close proximity to the plat, registered land survey, or development site. The city may require the land dedication option under this subdivision (b) as a condition of plat, registered land survey or building permit approval, and in so doing may require that the land be dedicated prior to or at the same time as recording the final plat or registered land survey.

(c) Dedication option; fee payment. If a plat or registered land survey is not required under section 598.40, if the dedication of land is not practical, or if city staff, after consultation with Park Board Superintendent or their designee, determines that the land to be dedicated does not meet the requirements of subdivision (a), then a developer of property subject to subdivision (b) of this section shall contribute a cash payment in lieu of all or a portion of the land otherwise required under subdivision (b) of this section. The fee for mixed-use developments that include both residential and non-residential development shall be the sum of the fees for the residential and non-residential development components. The amount of cash payment for residential development shall be one thousand five hundred dollars (\$1,500.00) per non-exempt unit, with said amount to be adjusted annually as described below. The amount of the cash payment for non-residential development shall be based upon the city assessor's most recent certified land estimated market value per square foot of the total acreage of the plat or development site at the time of city approval, multiplied by the number of square feet that would have been dedicated under subdivision (b). The amount of cash payment in lieu of dedication for non-residential development shall not exceed two hundred dollars (\$200.00) per development employee, with said maximum to be adjusted annually as described below. Both the per unit and per development employee limits above shall be adjusted each April 1 by the change in the Consumer Price Index for all Urban Consumers (CPI-U, all Items) for the Minneapolis-St. Paul area issued by the Bureau of Labor Statistics for the preceding twelve (12) months ending December 31 of the previous year, but shall not be reduced. In determining whether land dedication or cash in lieu thereof will be required, city staff, in consultation with park board staff, may consider without limitation the suitability and adaptability of land within the site for the purposes listed in subdivision (a) of this section and criteria for land dedication in subdivision (a) of this section. The cash payment in lieu shall be contributed prior to obtaining the city clerk's signature on the final plat or at the time of payment of the fees for the building permit that authorizes the construction of the main structure of the project. prior to obtaining the building permit required for the project.

Section 5. That Section 598.380 of the above-entitled ordinance be amended to read as follows:

- **598.380. Private land maintained for public use.** City staff, after consultation with Park Board Superintendent or his their designee, may at its discretion, waive all or a portion of the land or cash dedication required in section 598.370 and enter into an agreement for the private development and/or maintenance of land for public use for parks, playgrounds, recreational facilities, wetlands, trails, or open space areas within the proposed development, subject to the following conditions:
- (1) The land area or value of the land and improvements privately developed and maintained for public use for parks, playgrounds, recreational facilities, wetlands, trails, or open space areas must at least equal that required under this ordinance.
- (2) Land, facilities, and improvements accepted under this provision shall be accessible to the public in a manner similar to public land.
- (3) The city must find that such land and improvements will serve the purposes listed in section 598.370(a).
- (4) The city, park board, and developer of the land must have executed a parkland development agreement ensuring that specified land shall be developed and maintained by the developer to park board standards, and any and all successors in interest thereof, of any type whatsoever, which includes, but is not limited to heirs and assigns, for the purposes listed in section 598.370(a). The developer must include a covenant running with the specified land indicating that the land to be developed and maintained to park board standards for the purposes listed in section 598.370(a) will revert to the city and/or park board in the event of a failure to comply with this requirement. When a recordable covenant concerning the ownership, maintenance or use of private areas and facilities for parkland development is required, the covenant shall be submitted to the city for approval, after consultation with park board staff. Such covenant shall be recorded prior to or at the same time as the final plat or prior to obtaining building permits, as applicable.
- (5) Yards, court areas, parking areas, stormwater management areas, setbacks, and other open areas required by zoning and building ordinances and regulations shall not be included in the computation of the land area required in determining the park dedication waiver.
- (6) Before a waiver is given, the city, in consultation with Park Board Superintendent or their designee, shall make a finding that such a waiver is acceptable.
- (7) That where such waiver is granted, the amount of the waiver in the downtown area may be up to one hundred (100) percent of the park dedication requirements for the development.
- (8) That where such waiver is granted, the amount of the waiver elsewhere in the city shall not exceed seventy-five (75) percent of the park dedication requirements for the development.
- (9) If the developer provides park and recreational improvements, site amenities, or other landscape elements to the public use space, the value of the improvements shall be credited against the park dedication fees and conform to park board standards.

Section 6. That Section 598.410 of the above-entitled ordinance be amended to read as follows:

598.410. Administrative fee. An nonrefundable administrative fee of five (5) percent of the park dedication fees, not to exceed one thousand dollars (\$1,000.00) per project,

collected through building permits shall be paid by the permit applicant to the city upon building permit issuance.

Section 7. That Section 598.420 of the above-entitled ordinance be amended to read as follows:

- **598.420.** Effective date. This chapter ordinance shall take effect at the later of: on January 1, 2014. It shall not apply to development that has received approval of all required land use applications by the city council, city planning commission, and/or board of adjustment prior to the effective date or development for which complete land use and/or building permit applications have been received in full by the department of community planning and economic development prior to the effective date.
 - (1) Six (6) months after both the Minneapolis City Council and the Park and Recreation Board adopt identical ordinances, or
 - (2) Approval of state law amendments related to same.